

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4066-2014 (O&M)

Date of decision: 22.01.2020

Rajender Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. DD Sharma, Advocate for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this revision, the petitioner-accused has laid challenge to judgment dated 01.12.2014, of Ist Appellate Court, dismissing his appeal thereby affirming the judgment of conviction and order of sentence of the trial Court dated 05.07.2011, whereby he was held guilty under Sections 279 and 304-A IPC and sentenced as under:

<i>Section</i>	<i>Sentence</i>
304-A IPC	To undergo rigorous imprisonment for a period of 2 years and to pay fine of ₹4000/-. In default, to further undergo imprisonment for 3 months.
279 IPC	To undergo rigorous imprisonment for a period of 6 months and to pay fine of ₹1000/-. In default, to further undergo imprisonment for 15 days.

Both the sentences were ordered to run concurrently.

Briefly, petitioner-Rajender Kumar, was booked and tried in case FIR No. 164 dated 09.06.2009, registered under Sections 279 and 304A IPC, Police Station City, Narnaul, on the allegations that on

09.06.2009, he while driving tempo bearing registration No. HR-55-0202, in a rash and negligent manner, caused death of a teenager named Pankaj.

After holding trial, vide judgment of conviction and order of sentence dated 05.07.2011, petitioner was convicted and sentenced in the manner as narrated in the opening part of the judgment.

Being aggrieved, the petitioner approached the Ist Appellate Court, who after hearing both the sides, dismissed his appeal affirming the aforesaid judgment of conviction and order of sentence of the trial Court dated 05.07.2011.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that prosecution could not establish the identity of petitioner beyond any shadow of doubt. PW-2 Hari Kamal and PW-3-Jai Parkash, were the interested witnesses. Thus, their statements could not have been relied upon.

On the other hand, learned State counsel strongly refuting the submissions of learned counsel for the petitioner, pleaded the legality and validity of the impugned judgment.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

No question of law much less substantial has been raised in this revision.

This Court, while exercising its revisional powers, has very limited jurisdiction, which can only be exercised, (i) when the Courts

below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

As far as identity of petitioner is concerned, PW-2 Hari Kamal and PW-3 Jai Parkash, who witnessed the occurrence, categorically testified that petitioner present in Court had caused the alleged accident, while driving the offending tempo in rash and negligent manner. The petitioner, in his statement under Section 313 Cr.P.C., did not specifically deny the said deposition, rather in routine denied the entire prosecution story. The petitioner did not even state that he was not driving the aforesaid tempo on the relevant date. Thus, the trial Court rightly observed that it was only the petitioner who was driving the alleged offending tempo on the date of accident.

I have carefully gone through the judgments of both the Courts below and find no illegality or perversity in the same.

The instant revision, being completely devoid of any merit, is dismissed.

A copy of this order be sent to the Chief Judicial Magistrate, Narnaul, who shall issue warrants of arrest against the petitioner to undergo remaining part of his sentence.

January 22, 2020
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No